

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Mark Acton, Vice Chairman;  
Nanci E. Langley; and  
Robert G. Taub

Competitive Product Prices  
Inbound Competitive Multi-Service Agreements  
with Foreign Postal Operators  
Australian Postal Corporation–United States Postal Service  
Bilateral Agreement (MC2010-34)  
Negotiated Service Agreement

Docket No. CP2012-1

NOTICE AND ORDER CONCERNING FILING  
OF AN ADDITIONAL INBOUND COMPETITIVE MULTI-SERVICE  
AGREEMENTS WITH FOREIGN POSTAL OPERATORS 1  
NEGOTIATED SERVICE AGREEMENT

(Issued October 21, 2011)

I. INTRODUCTION

On October 17, 2011, the Postal Service filed a notice, pursuant to 39 CFR 3015.5, that it has entered into an additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 agreement.<sup>1</sup> The Notice concerns the inbound portion of a bilateral agreement for inbound competitive services with

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<sup>1</sup> Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with a Foreign Postal Operator, October 17, 2011 (Notice); *see also* Docket Nos. MC2010-34 and CP2010-95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

Australian Postal Corporation (Australian Post Agreement) that the Postal Service seeks to add to the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.

In Order No. 546, the Commission approved the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product and a functionally equivalent agreement, Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV (TNT Agreement). The Postal Service asserts that its filing demonstrates that the Australian Post Agreement fits within the Mail Classification Schedule (MCS) language in Governors' Decision No. 10-3 originally filed in Docket Nos. MC2010-34 and CP2010-95. Notice at 3-4. Additionally, it contends that the Australian Post Agreement is functionally equivalent to the agreement filed in Docket No. CP2010-95. *Id.* at 3. In Order No. 840, the Commission approved the functionally equivalent Norway Post Agreement and the designation of the TNT agreement as the baseline agreement for functional equivalency analyses of the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product.<sup>2</sup>

In support of its Notice, the Postal Service filed four attachments as follows:

- Attachment 1—a redacted copy of the Australian Post Agreement;
- Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 10-3 that establishes prices and classifications for Inbound Competitive Multi-Service Agreements with Foreign Postal Operators agreements, proposed MCS language, formulas for prices, certification of the Governors' vote and certification of compliance with 39 U.S.C.3633(a); and
- Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the agreement and supporting documents under seal.

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<sup>2</sup> See Docket No. CP2011-69, Order Concerning an Additional Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 Negotiated Service Agreement, September 7, 2011 (Order No. 840).

*Australian Post Agreement.* The Postal Service filed the instant agreement pursuant to 39 CFR 3015.5 and in accordance with Order No. 546. The Australian Post Agreement covers the delivery of inbound Air Parcel Post (Air CP) and Express Mail Services (EMS). *Id.* at 3. The Postal Service states that the parties intend for the rates to become effective January 1, 2012, and to remain in effect for two years. *Id.* at 4, Attachment 1 at 1. The Agreement may be terminated without cause with 30 days notice. *Id.* Attachment 1 at 6.

*Functional equivalence.* The Postal Service contends that the Australian Post Agreement to deliver inbound Air CP and EMS in the United States is functionally equivalent to the agreement to deliver inbound Air CP and EMS in the TNT Agreement. *Id.* at 3. The Postal Service asserts that the Australian Post Agreement is similar in both products and cost characteristics to the TNT Agreement. *Id.* at 5. It states that the TNT Agreement includes similar terms and conditions, *e.g.*, is an agreement with a foreign postal operator and conforms to a common description. *Id.* The Postal Service identifies differences that distinguish the instant agreement from the TNT Agreement. *Id.* at 5-7. These distinctions include different foreign postal operators, detailed content restrictions, customs inspection, intellectual property, co-branding and licensing, joint business development initiatives, rate tables, development of Accounting Business Rules and other differences. *Id.*

The Postal Service contends that the Australian Post Agreement and the TNT Agreement incorporate the same cost attributes and methodology and the relevant cost and market characteristics. *Id.* at 7. Despite some differences, the Postal Service asserts that the Australian Post Agreement is functionally equivalent to the TNT Agreement previously filed. *Id.*

In its Notice, the Postal Service maintains that certain portions of the agreement, prices, and related financial information should remain under seal. *Id.* at 4, Attachment 4.

The Postal Service concludes that the Australian Post Agreement complies with 39 U.S.C. 3633 and is functionally equivalent to the TNT Agreement. *Id.* at 7. Therefore, it requests that the Commission add the Australian Post Agreement to the Inbound Competitive Multi-Service Agreement with Foreign Postal Operators 1 product. *Id.* at 8.

## II. NOTICE OF FILING

The Commission establishes Docket No. CP2012-1 for consideration of matters raised by the Postal Service's Notice.

The Commission appoints James F. Callow to serve as Public Representative in this docket.

*Comments.* Interested persons may submit comments on whether the Postal Service's filings in the captioned docket are consistent with the policies of 39 U.S.C. 3632, 3633 or 39 CFR part 3015. Comments are due no later than October 31, 2011. The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>).

## III. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission establishes Docket No. CP2012-1 for consideration of the matters raised in this docket.
2. Pursuant to 39 U.S.C. 505, James F. Callow is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than October 31, 2011.

4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove  
Secretary